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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

BETTER MORNINGS, LLC et al

Plaintiffs,

vs.

JOSEPH NILSEN and DIGITAL
CHECKMATE, INC.

Defendants.

Case No.: 2:19-cv-03854

**(PROPOSED) DEFAULT
JUDGMENT AND ORDER**

Plaintiffs Better Mornings, LLC and Island Breeze, LLC (“Plaintiffs”), having filed a complaint seeking damages and demanding a preliminary and permanent injunction and other relief, and defendants Joseph Nilsen and Digital Checkmate, Inc. (“Defendants”) having failed to file a timely answer, and Plaintiffs’ application for default and entry of judgment having been granted pursuant to Fed. R. Civ. P. 55(a) on _____, 2019, it is hereby

ORDERED, ADJUDGED AND DECREED THAT Defendants and their agents, servants, employees, attorneys, successors and assigns and all other persons in active concert and privity with them be preliminarily and permanently enjoined from:

- a. making or displaying any false advertisement, description, false representation, or any marks, names, words, symbols, devices, or trade dress with respect to Plaintiffs’ business, brands, goods, and/or personnel;

- b. authorizing any third party to make or display any false advertisement, description, false representation, or any marks, names, words, symbols, devices, or trade dress with respect to Plaintiffs' business, brands, goods, and/or personnel;
- c. interfering in any respect with Plaintiffs' product listings on Amazon.com or any other online marketplace;
- d. engaging in any false or deceptive practices with respect to Plaintiffs, or activity constituting unfair competition with Plaintiffs;
- e. aiding, assisting, or abetting any other individual or entity in doing any act prohibited by this judgment.

And it is further

ORDERED, that judgment is hereby entered in favor of Plaintiffs awarding Plaintiffs damages in the amount of \$900,135.85;

And it is further

ORDERED, that Defendants account to Plaintiffs of its profits resulting from its acts of false advertising, unfair competition and unfair and deceptive trade practices and pay to Plaintiffs treble said amount because of its willful acts done in disregard of Plaintiffs' known rights;

And it is further

ORDERED, that Defendants pay, not later than _____ business days after the date that this Judgment is entered by the Court, Plaintiffs' attorney fees and disbursements, together with all costs of this action, amounting to \$_____, as set out in the Bill of Costs and Affidavit of Berwin Cohen, attorney for Plaintiffs, filed concurrently herewith;

And it is further

ORDERED, that Defendants shall file with the court and serve upon Plaintiffs' counsel within thirty (30) days after entry of this Judgment a report in writing, under oath,

1 setting forth in detail the manner and form in which Defendants have complied
2 therewith;

3 And it is further

4 ORDERED, that this court shall retain jurisdiction over this cause of action and the
5 parties thereto for purposes of enforcing the provisions of this judgment.

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7 Done at Central Islip, New York

8 This _____ day of _____, 2019.

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U.S.D.J

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